

EXHIBIT C

1 UNITED STATES DISTRICT COURT
2 NORTHERN DISTRICT OF CALIFORNIA
3 SAN FRANCISCO DIVISION
4

5 FACEBOOK, INC.,)
6)
7 Plaintiff,) Case No.
8 vs.) 5:08-cv-05780 JW (JCS)
9)
10 POWER VENTURES, INC., a)
11 Cayman Island Corporation;)
12 STEVE VACHANI, an individual;)
DOE 1, d/b/a POWER.COM,)
DOES 2-25, inclusive,)
Defendants.)
_____)

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14
15 CONFIDENTIAL
16

17 VIDEOTAPED DEPOSITION of POWER VENTURES,
18 INC.'S 30(b)(6) Designee STEVEN VACHANI taken on behalf
19 of Plaintiff, at Orrick, Herrington & Sutcliffe LLP, 405
20 Howard Street, 10th Floor, San Francisco, California
21 beginning at 9:13 a.m., Monday, January 9, 2012, before
22 CHERREE P. PETERSON, RPR, CRR, Certified Shorthand
23 Reporter No. 11108.
24
25

1 Q. In the second paragraph you stated "Power has
2 already produced the actual source code it used to
3 access Facebook's website. The source code as well as
4 the other documents Power has produced in this case such
09:30 5 as the PowerScript Training documents and PowerScript
6 Documentation Developer Manual show precisely how Power
7 accessed Facebook's website." These "documents
8 constitute the best possible information Power has to
9 understand how Power accessed Facebook's website."

09:31 10 Do you see that?

11 A. Yes.

12 Q. Okay. So that statement was accurate when you
13 made it?

14 A. Yes.

09:31 15 Q. Is it fair to say that the -- the actual
16 source code that Power has produced in this case is the
17 best evidence of what Power did and how it was doing it
18 with respect to the Facebook web site?

19 MR. FISHER: Objection. Vague.

09:31 20 THE WITNESS: I believe we've provided
21 everything that we had available. So -- so therefore
22 everything that was possibly available as we provided,
23 therefore that's the best that could be provided.

24 MR. CHATTERJEE: Okay. Could you read the
09:31 25 question back, please.

1 (Whereupon the record was read as requested.)

2 THE WITNESS: All I can -- as I said, we've
3 provided everything that's avail --

4 Q. BY MR. CHATTERJEE: I'm not asking a discovery
09:32 5 question --

6 A. Yeah.

7 Q. -- Mr. Vachani.

8 A. Okay.

9 Q. I'm asking the question of is the source
09:32 10 code --

11 A. Yeah.

12 Q. -- the best evidence of what Power Ventures
13 did with respect to the Facebook web site?

14 MR. FISHER: Objection. Vague.

09:32 15 THE WITNESS: I don't -- I don't know. I
16 don't know the answer if the source code is the best
17 evidence. That's a -- I think a subjective opinion.

18 Q. BY MR. CHATTERJEE: Okay. So let me -- I'll
19 -- let me explore that a little bit.

09:32 20 A. Sure.

21 Q. In your deposition that Mr. Cooper took, you
22 characterized the way that some of the Power Ventures
23 software worked. You recall testifying generally about
24 that?

09:32 25 A. Yes.

1 existed and it provides -- you can interpret that as
2 best as you want. We provided you code, the company's
3 code. We've provided everything that -- that's
4 available.

09:34 5 Q. BY MR. CHATTERJEE: Okay.

6 A. And I have answered every question in the past
7 in previous statements. So what I've said in those
8 previous statements I -- I stand by.

9 Q. Okay. So let me ask it again. If your
09:34 10 testimony differ from what the actual source code used
11 to access Facebook's web site shows --

12 A. Yes.

13 Q. -- which one of those two is the best possible
14 information Power has to understand how Power accessed
09:34 15 Facebook's web site?

16 MR. FISHER: Objection. Vague. Assumes facts
17 not in evidence. Incomplete hypothetical.
18 Argumentative. Asked and answered.

19 THE WITNESS: I think this, again, you're
09:34 20 getting into hypothetical statements here. We've
21 provided the code. You know what it does. I've told
22 you in the past what it does. I've answered many
23 questions and many answers on this. I don't know what
24 -- what you're trying to --

09:34 25 Q. BY MR. CHATTERJEE: What I'm trying -- what

1 tracked, right?

2 A. There would be data in the data -- that's
3 correct.

4 Q. Okay. And we've referred generally to the
10:50 5 database.

6 A. Yes.

7 Q. Can you tell me what that was called or what
8 the file name of it was?

9 A. I -- the file names you guys have -- have
10:50 10 reviewed everything that was there. So you -- you guys
11 have probably -- your guys probably have better
12 knowledge of that than I do personally. I mean, because
13 you guys -- probably the most -- recently analyzed it
14 the most.

10:50 15 Q. Do you know if that database exists today?

16 A. Everything -- everything that was -- we
17 provided everything that exists today to you guys. And
18 as far as I understand, everything -- and again was --
19 everything -- you guys were able to find all files
10:50 20 except for a specific file that we -- we have that we've
21 discussed that was a -- a -- a log-in file of -- of
22 links of, like, pages visited, which I think that was
23 the -- that was the file that was 180 gigs that was
24 available for three years. But on two -- in -- on
10:51 25 August 2011 was not able -- it was too large to transfer

1 A. Yeah. We gave e-mail -- power.com e-mail
2 addresses to most of our people because it was a nice
3 name to include on -- this was giving Andreas a Power
4 address.

13:51 5 Q. And Eric Santos also had one?

6 A. Yeah. Well, I -- at that time every -- we
7 gave -- we gave Power addresses to almost anyone that
8 was a shareholder. Some used it, some didn't.

9 Q. So if I wanted to find an e-mail from Eric
13:51 10 Santos to Rob Pollock where you weren't cc'd, where
11 would I look to get that e-mail?

12 A. Well, Rob -- Rob -- you'd have -- you'd have
13 to ask Rob -- Rob Pollock, you know. I mean, it was --
14 those -- those e-mails were all -- they were no -- there
13:52 15 was no like -- at this -- for most of the stage of the
16 company, it was the way that you have access to each
17 other's e-mail boxes.

18 Q. So there was no centralized e-mail repository?

19 A. There wasn't.

13:52 20 Q. Okay. And -- and was it basically a
21 technology where someone could have a power.com e-mail
22 address but it would forward --

23 A. It was forward to their -- exactly.

24 Q. Forward to a personal --

13:52 25 A. Forwarded to --

1 THE REPORTER: Okay. Let him finish, please.

2 Q. BY MR. CHATTERJEE: And it would forward to a
3 personal e-mail account?

4 A. Yeah.

13:52 5 Q. For everybody?

6 A. Some people accessed -- everyone had different
7 ways to access their Power. I mean, some people had
8 their own servers. You know, everyone had their own --
9 their own way of accessing their e-mail.

13:52 10 Q. But there was no centralized place at Power
11 where those e-mails were maintained?

12 A. Not that I know of, I mean, that we -- that we
13 utilized. I mean, I -- I know I personally utilized my
14 e-mail through -- through the box that I gave you access
13:52 15 to.

16 Q. Right. But your e-mail address typically says
17 steve@stevevachani.com and not power.com.

18 A. Yahoo! makes it harder to do your from. A lot
19 of the people use them. On their desktop they can --
13:53 20 because, like, Google and some others make it easier to
21 be able to put your e-mail there.

22 Q. Okay.

23 A. And I -- also I guess I had been using that so
24 long, I just -- I -- I -- I think my BlackBerry, you
13:53 25 know, it would -- it would send. But all the send would

1 not necessary as we....

2 Q. So when this lawsuit was filed, did you e-mail
3 the various power.com members and ask them to preserve
4 documents?

13:54 5 A. Did I e-mail? I mean, you have my e-mails,
6 so. I mean, I don't -- I don't think there was a --
7 there was no law -- there was no law -- there was a -- I
8 mean, I -- I don't know what -- what -- what we said to
9 them, but it would be -- it would be my -- everything is
13:54 10 in my e-mail.

11 Q. Do you recall ever instructing the power.com
12 employees not to -- not to destroy documents?

13 A. It's our standard policy no one -- not to
14 destroy documents. No one's -- as far as I know, no
13:55 15 one's -- no one's taken any direct effort to destroy
16 documents.

17 Q. Did -- but my question's really precise. When
18 the litigation was filed did you send out a reminder or
19 tell anyone not to destroy documents?

13:55 20 A. Which? You mean the Facebook litigation?

21 Q. Yeah.

22 A. No, I didn't.

23 Q. Okay. And was there any particular reason why
24 you didn't do that?

13:55 25 A. There was no -- it was just a standard --

1 instructions were made, you have access to my e-mails.
2 And you -- you've seen if there are anything -- no one
3 has ever been instructed to destroy anything. And as
4 far as I understand, everybody's, you know --

13:56 5 Q. BY MR. CHATTERJEE: Right. My question's
6 different. Not no one's been instructed to destroy.
7 Were people instructed to make sure that they preserved?

8 A. No one -- I don't believe anyone was
9 instructed, you know, either way. But if there's an
13:56 10 e-mail otherwise -- to the best of my recollection, no.

11 Q. Was there a written corporate policy that
12 employees were given as part of training or otherwise
13 that said what you said earlier that people aren't
14 supposed to get rid of documents or e-mails?

13:56 15 A. We -- there was some corporate policies. And
16 I don't know if those -- I don't know what -- what --
17 what -- how formal they were. There were corporate
18 policies when the -- when the company was in that stage.

19 Q. Okay.

13:57 20 A. But I don't know if there was something
21 specific on that issue. No one -- none of us had ever
22 been through -- I don't think anyone's ever discussed a
23 lawsuit. The lawsuit had never been part of that.

24 Q. I'm not sure I'll ask this question artfully.
13:57 25 So people had a power.com e-mail address which would

1 forward to their personal address?

2 A. No. I mean, there -- there was a server.

3 But, I mean, I say everyone -- how they accessed it was
4 in different ways.

13:57 5 Q. Okay. But that server, would it house the
6 e-mails that people received as part of the business or
7 would it just forward things on?

8 A. I -- I don't know how it was exactly work.
9 But I believe that, you know, there was -- everyone had
13:57 10 a different way of accessing their -- their e-mails.
11 That's all I know. And all the people -- like I -- I
12 accessed mine through Yahoo! and Eric would access
13 through, you know, his own. Everybody accessed on their
14 own.

13:57 15 Q. So if that server did have e-mails between
16 people at Power that didn't include you, that would be
17 on the backup?

18 A. I mean, yeah, it would be on the backup.

19 Q. Okay. And if it isn't there, then --

13:58 20 A. Yeah. Whatever -- whatever we have is in the
21 backup.

22 Q. Okay.

23 A. I mean, I don't know the technical details on
24 how these things were -- were working, so.

13:58 25 Q. And if -- is it Power's view that an -- an

1 e-mail sent to a power.com employee that was then
2 forwarded to a personal account, who -- whose e-mail is
3 that? Is that the employee's e-mail or is it Power's
4 e-mail?

13:58 5 MR. FISHER: Objection. Vague. Calls for a
6 legal conclusion.

7 Q. BY MR. CHATTERJEE: Do you follow me?

8 A. Yeah.

9 Q. I can give you a concrete example.

13:58 10 A. Yeah.

11 Q. If Eric Santos e-mailed Bruno Carvalho with
12 some sort of business instruction --

13 A. Yeah.

14 Q. -- and it went to their personal e-mail --

13:58 15 A. Yeah.

16 Q. -- through the server architecture, who would
17 be the owner of that e-mail?

18 A. Well, I'll --

19 MR. FISHER: Same objections.

13:59 20 THE WITNESS: I'll answer it another way that
21 -- more practically. That we were a small company. So
22 if I look at the ten people that I personally
23 communicated with most regularly and think about each of
24 them, you know, I mean, from a practical standpoint --
13:59 25 although this doesn't answer your question -- almost --

1 almost any e-mail, you know, there -- that all the
2 people that are involved in this situation have -- have
3 pretty much been -- you know, they're -- they're -- they
4 had -- they had their own solution. So I don't know who
13:59 5 own. I mean, we had -- if they had access. If they
6 chose to copy one person in Power, then obvious -- it's
7 accessible. And so that's from practical purposes
8 anything that was copied to me or anything that was
9 copied to Eric or -- or Rob or Zak or all these key
13:59 10 people that were in the company, you know, they were all
11 essentially preserved.

12 Q. BY MR. CHATTERJEE: Right. But if -- let's --
13 let's say that -- that there was an e-mail that went to
14 a person's personal e-mail account through the
13:59 15 forwarding tool on the servers and it had a bunch of
16 power.com business information, was the employee who
17 received that e-mail free to go and use that information
18 however they wanted outside of Power?

19 MR. FISHER: Objection. Vague. Calls for a
14:00 20 legal conclusion. Incomplete hypothetical.

21 THE WITNESS: In -- in theory, no. I mean,
22 they're not supposed -- they -- they -- when they sign,
23 when they join the company, they sign saying that
24 everything -- their -- their employment contracts, which
14:00 25 I believe you've seen some, you know, have references

1 to, you know, ownership and data and everything else
2 that they state. So there's a certain level of -- we're
3 probably not large enough to have implemented really
4 rigid, you know, well-defined systems at that level.
14:00 5 But, you know, we -- they were pretty -- the employment
6 contracts state, you know, we own -- we own all the
7 stuff. The standard stuff that are in most employment
8 contracts.

9 Q. BY MR. CHATTERJEE: Okay. Let's go to Exhibit
14:00 10 2 -- 203. On the second page this is -- this is an
11 e-mail from you to a whole bunch of people that April
12 30th, 2009.

13 A. Yep.

14 Q. Do you see that?

14:00 15 A. Yeah.

16 Q. At the very bottom of the page there's number
17 5. It says "Our new US Launch scheduled in July."

18 A. Yeah.

19 Q. What -- what was the US-based launch going to
14:01 20 be?

21 A. We had -- we had considered, you know, just
22 making -- starting to more -- to more aggressively push
23 our -- the Power site. And we had also talked about,
24 you know, potentially turning back -- Facebook back on,
14:01 25 which we decided not to do.

1 30(f)(1)).

2 Before completion of the deposition, review of
3 the transcript (XX) was () was not requested. If
4 requested, any changes made by the deponent (and
5 provided to the reporter) during the period allowed, are
6 appended hereto. (Fed. R. Civ. P. 30(e)).

7

8 Dated: JANUARY 13, 2012

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Chernee P. Peterson

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